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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re Y.D. et al., Persons Coming
Under the Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

N.D.,

Defendant and Appellant.

B288308

Los Angeles County
Super. Ct. No. 17CCJP00258

APPEAL from orders of the Superior Court of Los Angeles County. Julie Fox Blackshaw, Judge. Dismissed.

Roni Keller, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Acting Assistant County Counsel, and Tracey F. Dodds, Principal Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

Mother N.D. (mother) appeals from the juvenile court's jurisdictional and dispositional orders finding she failed to protect her children Y.D., N.D., and E.D. from the physical abuse of Y.D.'s and N.D.'s father, J.W. (father). She does not contest the court's jurisdictional findings based on father's physical abuse, but contends substantial evidence does not support the jurisdictional findings as to her. The Los Angeles County Department of Children and Family Services (the Department) contends mother's appeal does not raise a justiciable issue and the court's findings are supported by substantial evidence. While the appeal was pending, the juvenile court terminated its jurisdiction over all three children.

Because there is no effective relief we can provide mother even if we accepted her contention, we decline to address it and dismiss the appeal.

BACKGROUND

1. *Events leading to dependency jurisdiction*

Mother is the parent of Y.D., born May 2000, N.D., born December 2008, and E.D., born February 2013. E.D. has a different biological father from Y.D. and N.D. J.W. has been like a father to him, however.

The family lived together off and on; mother left father during the summer of 2016 due to domestic violence. She then sought a domestic violence restraining order against father in July 2016. The superior court found mother had not met her burden and denied the motion on July 26, 2016. It temporarily awarded mother sole legal and physical custody of Y.D. and N.D. with unmonitored visitation for father "every Sunday from 9 a.m. to 2:00 p.m."

The family was referred to the Department in late June 2016 based on allegations of emotional abuse and neglect by father. The Department concluded the allegations were inconclusive and closed the referral. But the family came to the attention of the Department again the next summer based on a report that father physically abused E.D. Mother permitted E.D. and N.D. to have an overnight visit with father in August 2017. During the visit, father allegedly “whooped” E.D. with a backscratcher, leaving long, painful welts on E.D.’s buttock. Mother reported the abuse to the police.

During the Department’s investigation, Y.D. told a social worker that when the family lived together father hit E.D. with a belt and backscratcher and punched N.D. in the chest. Father had not hit Y.D. since she was 14. N.D. also reported father would hit him with a backscratcher or his hands when the family lived with father. Mother told a social worker that, while living with father, father “ ‘whooped’ ” N.D. with a belt because he had a bathroom accident. She was not there, but N.D. told her about it. She did not know father had punched N.D. in the chest. The children reported feeling safe with mother.

2. *Dependency proceedings*

On September 12, 2017, the Department filed a petition under section 300, subdivisions (a), (b)(1), and (j) of the Welfare and Institutions Code¹ on behalf of minor children Y.D., N.D., and E.D. The petition alleged father physically abused E.D. and N.D. and had a history of domestic violence with mother, placing the children at risk of harm. The petition alleged mother failed

¹ Undesignated statutory references are to the Welfare and Institutions Code.

to take action to protect the children, allowing father “unlimited access” to them, despite her knowledge of the abuse. The court detained the children from father only, released the children to the home of mother under the supervision of the Department, ordered family preservation services for mother, and ordered monitored visitation for father.

At the January 17, 2018 jurisdictional and dispositional hearing, the juvenile court struck the failure to protect allegations against mother based on father hitting E.D. in August 2017. The court sustained the failure to protect allegations against mother under section 300, subdivisions (a), (b), and (j), based on father’s physical abuse of N.D. The court questioned, “is it really credible to believe that the mother was not aware” of the hitting that “was happening when they all lived together”? The court concluded, “I do believe that the mother was aware of [N.D.’s] issues. She was aware of one time when [N.D.] was hit because he had a bathroom accident himself.” Finally, the court sustained the failure to protect allegations against mother based on mother and father’s history of domestic violence, under section 300, subdivisions (a) and (b). The juvenile court sustained all of the allegations under section 300, subdivisions (a), (b), and (j), as to father.

The court declared the children dependents of the juvenile court and ordered the children placed in mother’s home under the Department’s supervision with family maintenance services.

3. *Appeal and subsequent dependency proceedings*

Mother timely appealed from the juvenile court’s jurisdictional and dispositional orders. Father is not a party to the appeal.

While the appeal was pending, the juvenile court terminated its jurisdiction over Y.D. on July 26, 2018, because she had turned 18. It also held a section 364 hearing as to N.D. and E.D. on November 27, 2018. At that hearing the juvenile court terminated its jurisdiction over N.D. and E.D. and made juvenile custody orders. The next day the juvenile court entered its juvenile custody orders awarding sole legal and physical custody of N.D. and E.D. to mother and granting their fathers monitored visitation.

On our own motion, we take judicial notice of the juvenile court's orders terminating jurisdiction over the children and awarding sole legal and physical custody of N.D. and E.D. to mother.²

DISCUSSION

“It is a fundamental principle of appellate practice that an appeal will not be entertained unless it presents a justiciable issue.” (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1489.) A justiciable controversy is one that “concern[s] a present, concrete, and genuine dispute as to which the court can grant effective relief”—in other words, one “that can have a practical, tangible impact on the parties’ conduct or legal status.” (*Id.* at pp. 1489-1490.) “ “ “ “It is this court’s duty “ “to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it.” ’ ’ ’ ’ ’ ” (*Id.* at p. 1490.)

² We asked the parties to provide us with an update of the dependency proceedings. Counsel provided us with copies of the juvenile court orders described above.

When the court cannot grant effective relief to the parties to an appeal, the appeal should be dismissed. (*Ibid.*)

An appellate court also will dismiss a dependency appeal “when an event occurs,” such as the juvenile court’s termination of its jurisdiction, “that renders it impossible for the court to grant effective relief.” (*In re N.S.* (2016) 245 Cal.App.4th 53, 58-59.) The critical factor in considering whether a dependency appeal is moot “is whether the appellate court can provide any effective relief if it finds reversible error.” (*Id.* at p. 60.)

Mother does not challenge the validity of the jurisdictional findings as to father. Nor does she challenge the dispositional orders in her opening brief. Rather, she contends we should determine the merits of her appeal because the jurisdictional findings based on her failure to protect the children are false and “could be prejudicial to both her, as well as to the best interests of the minors, in any future child dependency proceedings, as well as in any future family law proceedings or contact with child dependency authorities or law enforcement, or potential employers.” She submits the juvenile court’s termination of its jurisdiction does not affect her appeal because it “seeks reversal and vacation of unfounded jurisdictional findings.” She asks that we reverse and vacate the juvenile court’s jurisdictional findings that she failed to protect her children and instruct the court to declare her a non-offending parent.

As a general matter, when a juvenile court asserts jurisdiction over a minor based on multiple grounds “‘a reviewing court can affirm the . . . court’s finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction . . . is supported by substantial evidence.’” (*In re Drake M.* (2012) 211 Cal.App.4th 754, 762.) As the unchallenged jurisdictional

findings against father support the juvenile court's jurisdiction over the children, we “ ‘need not consider whether . . . the other alleged statutory grounds for jurisdiction are supported by the evidence.’ ” (*Ibid.*) Mother, however, argues we should consider the merits of her appeal because the sustained allegations “could prevent a parent from receiving reunification services in the future as to a presently unborn child”; “could force a parent to concede their veracity tomorrow, simply to be able to have a chance to raise their own child”; and “could potentially render[] appellant with no way of challenging any listing on the Child Abuse Central Index (CACI) or other places that harbor or publish child abuse accusations.”

Mother's claims of prejudice are speculative. The children never were detained from mother, and the juvenile court ordered the Department to provide family maintenance services to her and her children throughout their dependency. With the court's termination of its jurisdiction over the children, mother also now has a custody order giving her sole physical and legal custody of N.D. and E.D.

Thus, there is no current basis for mother to fear denial of reunification services as to a future unborn child, or a finding that she is unfit to raise her children based on her denial of the allegations. Mother denied the allegations throughout the proceedings and the court left her children in her care. Nor has mother presented any evidence that she has been listed on CACI. Accordingly, mother has failed to identify a specific adverse consequence or prejudice she will face as a result of the challenged jurisdictional findings.

We recognize mother's efforts to protect her children by leaving father and seeking a family law order in 2016, and then

immediately reporting the August 2017 incident to police and the Department. “But even if we were to conclude that the juvenile court’s jurisdictional findings erroneously resolved a close call, there remains no effective relief we could give [m]other beyond that which she has already obtained.” (*In re N.S.*, *supra*, 245 Cal.App.4th at p. 62.) As mother has shown no adverse effect from the jurisdictional findings, we decline to exercise our discretion to review them. (*Id.* at p. 63.)

We therefore dismiss mother’s appeal because there is no justiciable controversy for which we can grant any effective relief. The appeal also is moot based on the juvenile court’s termination of its jurisdiction over the children and order awarding sole legal and physical custody of N.D. and E.D. to mother.

DISPOSITION

The appeal is dismissed.

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EGERTON, J.

We concur:

LAVIN, Acting P. J.

DHANIDINA, J.